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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/365,735	08/03/1999	ROBERT M. COOPER	06975/050001	2170
26171	7590	11/16/2005	EXAMINER	
FISH & RICHARDSON P.C. P.O. BOX 1022 MINNEAPOLIS, MN 55440-1022			HUYNH, SON P	
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			2611	

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Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/365,735	<b>Applicant(s)</b> COOPER ET AL.	
	<b>Examiner</b> Son P. Huynh	<b>Art Unit</b> 2611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 26 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 82-126 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 82-126 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 February 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments filed 08/26/2005 have been fully considered but they are not persuasive.

Applicant argues the Boyer, Alexander, Alten fail to disclose the features of "designating a content source from among the two or more content source based upon determined [a] local day-part [for a user's geographic location] and independent of a profile of a user," and "configuring a content display to feature content from the designated content source over content from other of the content sources based upon the determined local day-part and independent of a profile of a user." (Page 11, paragraph 3; page 14, paragraph 3; page 15, paragraphs 3-5).

In response, this argument is respectfully traversed. Boyer discloses the program guide listing is customized based on the user selection of options such as a geographic location (zip code, city, go local, go nation, etc., figures 4, 8), or a particular category (i.e. Prevue@channel, SneakPrevue@channel, by time, by channel –figures 10, 15), or particular day-part (mid-day, Early, Morning, etc. –figures 16-22). When the user selects a particular day part, only channels/programs/event/information associated with the selected day part of user-input geographic location are displayed (paragraphs 0087-

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0089, 0102-0104). For example, if the user selects Afternoon for Sat 7, the page displays 2 KCBS with "College Football Army Vs. Navy" at 1:30 P.M to 2:00 P.M. (figure 16), The page does not list 21 AMC with "Land of the Pharaohs" at 12:00 P.M" (figure 20). Therefore, the claimed feature of "designating a content source from among the two or more content sources based upon the determined local day-part and independent of a profile of the user" is broadly met by providing a content source (e.g. 2 KCBS or College Football Army Vs. Navy) from among the two or more content sources (e.g., 2 KCBS/College Football... and 21 AMC/Land of the Pharaohs) based upon the determined local day part (Afternoon of Sat 7) and independent of a profile of the user (user just selects an Afternoon icon on the screen, which is not related to the profile);

The claimed feature of "configuring a content display to feature content from the designated content source over content from other of the content sources based upon the determined local day part and independent of a profile of the user" is broadly met by configuring and displaying content/information associated with the selected day part over the content/information from other content source based on user selection of particular day part on the display (i.e. configuring and displaying College Football... from College Football source over Land of the Pharaohs from Land of the Pharaohs source based on upon the Afternoon part selected by the user using icon on the screen).

Furthermore, the claimed features of "designating a content source... independent of a profile of the user" or "configuring... independent of a profile of the user" as claimed in independent claims 82, 97, 112, 122 are not disclosed in the specification.

Applicant further argues neither Boyer nor Alten discloses “customizing its television programming guide based upon first and second day-parts that have been determined for first and second users in first and second geographic areas” (page 15, paragraph 4, lines 1-4).

In response, this argument is respectfully traversed. Boyer discloses information/program in a listing page is customized based on user selection of geographic area (local, zip code, city, etc., figures 4-8). Boyer further discloses the listing page is customized based on the day-part such as Early, mid-day, Afternoon, etc. selected by the user (figures 16-22). For example, one user selects to display programs/information from 1:30 P.M to 3:00 P.M, only programs/information associated with selected day-part of the user's input geographic location information is displayed (figure 16), Boyer further discloses if the user desires to select go local option 136, the user may be prompt to enter a zip code for the local area of interest in box 144. If service is available, the program guide system links the user to an appropriate local system operator's web site based on the zip code information (paragraphs 0078, 0087). Boyer further discloses the program in program listings may be listed based on a predetermined time slot (e.g., morning, afternoon, or prime time) – paragraphs 0102-0104). Inherently, If another user input another geographic location and another day part, lists of programs/information associated with the selected geographic location input and day part are displayed. Therefore, Boyer inherently discloses customizing its

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television programming guide based upon first and second day-parts (e.g., morning, afternoon, etc.) that have been determined for first and second users in first and second geographic areas (for example, one user selects a one geographic location and day part and another user selects another geographic location and another day part).

For the reason given above, rejections on claims 82-126 are analyzed as discussed below.

Claims 1-81 have been cancelled.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 82-117 and 122 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

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The specification and drawings fail to support the subject matter of “designating a content source...independent of a profile of the user” now recited in claims 82, 97, 112, 122. The closest part of the specification discloses customizing the content page based on the retrieved day-part information (page 7, lines 20-21), and the viewer’s context could be based on local time of day, geographic region, the viewer’s history of viewing choices, demographic or personal data entered by the viewer (page 10, line 10-29). Therefore, designating a content source...appears to be dependent on the profile of the user.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 82-89, 97-104, 112-115 are rejected under 35 U.S.C. 102(e) as being anticipated by Boyer et al. (US 2004/0128686).

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Regarding claim 82, Boyer discloses a method where the user selects a region on the map or enter a zip code, the system determines the geographical location entered by the user, customizes the data and provides customized data with day-part appropriate for the geographic location that selected by the user (figures 4-6, 16, par. 0051, par. 0065, par. 0078, par. 0089, par. 0102-par. 0105, par. 0116-par. 0118). Thus, the limitations of the claimed method are met by Boyer's disclosure as follow:

"determining a geographic location of the user" is broadly met by determining the geographic location entered by the user (par. 0078);

"determining a local day part appropriate to the geographic location" is met by determining the local day part such as morning, mid –day, current time, etc. appropriate to the geographic location entered by the user – figures 4, 17, par. 0102-0104);

"receiving content from two or more content sources" is broadly met by receiving content from sources such as KCBS, KTLA, AMC, sources of programs/information etc. (figures 4,16, 20);

"designating a content source from among two or more content sources based upon the determined local day-part and independent of a profile of the user" is broadly met by customizing the content source from two or more sources based upon day part associated with the geographic location entered by the user. The geographic location is not in the user profile (figures 4,16,20; par. 0078, par. 0102-par. 0104). For example, displaying source of College Football Army Vs. Navy (figure 16) over source of Land of the Pharaohs (figure 20) if the selects time of the day from 1:30 P.M to 3: 00 P.M of user entered geographic location);



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“configuring a content display to feature content from the designated content source over content from other of the content sources based upon the determined local day part and independent of a profile of the user” is broadly met by customizing the data received from plurality sources (i.e. College Football... over Land of the Pharaohs) based on the geographic location/day part entered by the user, wherein the geographic location/day-part entered by selection on the screen is met by “independent of a profile of the user – par. 0078, par. 0102-par. 0104figures 4,8,16, 20);

“enabling presentation of content display to the user” is broadly met by displaying program data to the user (figures 16, 20, paragraphs 0102-0104).

Regarding claim 83, Boyer further discloses receiving content comprises receiving content from two or more broadcast sources (KCBS, KNBC, AMC, etc. – figures 4,16, 20).

Regarding claim 84, Boyer further teaches receiving content from two or more broadcast sources comprises receiving content from two or more broadcast networks (cable, satellite, Internet etc. figures 3-4).

Regarding claim 85, Boyer further teaches featuring content from the designated content source comprises configuring the content display to display only content related to the designated content source (only displaying content related to the designated content source associated with the data entered by the user – par. 0102-par. 0103).

Regarding claim 86, Boyer further teaches featuring content from the designated content source comprises configuring the content display to display a majority of content related to the designated content source (e.g. displaying content associated with closest time slot to the current time – par. 0102-par. 0103).

Regarding claim 87, Boyer further teaches featuring content from the designated content source comprises configuring the content display to display content related to the designated content source in a prominent position on the content display relative to a position of content from one or more other content source (e.g. displaying data in time slot 1:30 PM to 3:00 P.M and hidden all the sources not in this time slot – figure 16).

Regarding claim 88, Boyer further teaches featuring content from the designated content source comprises configuring the content display to display content related to the designated content source in a prominent manner (displaying on the screen or pink for sports program listings) on the content display relative to a manner of content from one or more other content source (not displaying on the screen or green for movie program listings) – figure 16, par. 0087.

Regarding claim 89, Boyer further teaches the content includes content other than advertising content (TV program – figures 16, 18).

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Regarding claim 113, the claimed feature of “featuring content from the designated content source comprises featuring content in addition to television content” is broadly met by advertisement, description, Internet content, etc. – figures 16.

Regarding claim 114, the claimed feature of “featuring non-television content” is met by program guide, description, advertisement, audio, graphic, colors, logo, etc. (figure 16, par. 0075, par. 0087).

Regarding claim 115, Boyer further discloses the non-television content comprises color, a graphic, text, advertisement, etc. (figure 16, par. 0075, par. 0087).

Regarding claims 97-104, the limitations of the computer program as claimed correspond to the limitations of the method as claimed in claims 82-89. Boyer further discloses using computer program to control all operations of the system (par.0052, par. 0062). Thus, rejections on claims 97-104 are analyzed as discussed with respect to the rejection of claims 82-89.

Regarding claims 112, the limitations as claimed correspond to the limitations as claimed in claim 97, and are analyzed as discussed with respect to the rejection of claim 97.

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 90-96, 105-111 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boyer et al. (US 2004/0128686 as applied to claimed 89 and 104 above, and further in view of Alexander (US 6,177,931).

Regarding claim 90, Boyer teaches a method as discussed in the rejection of claim 89. Boyer further discloses receiving advertisement segments, identifying the advertisements and configuring the advertisement segment to display on the display device. However, Boyer does not specifically disclose the advertisement segment corresponding to the content source.

Alexander discloses receiving one or more advertising segments corresponding to one or more of the content sources; identifying one or more advertising segments corresponding to the designated content source; configuring the content display to feature one or more advertising segments corresponding to the designated content source over advertising segments from other of the content sources (col. 32, line 24-col. 33, line 43; col. 18, line 54—col. 19, line 12; figure 3). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Boyer to use the teaching of associating advertisement to content source as taught by

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Alexander in order to provide most suited advertisement to users according to the content network the user accesses to therefore, improve efficiency in advertising.

Regarding claim 91, Alexander further teaches featuring one or more advertising segments corresponding to the designated content source comprises configuring the content display to display only advertising segments related to the designated content source (col. 20, lines 4-12; col. 24, lines 21-29; col. 33, lines 34-43; ).

Regarding claim 92, Alexander further teaches featuring one or more advertising segments corresponding to the designated content source comprises configuring the content display to display a majority of advertising segments related to the designated content source (col. 20, lines 4-32; and figure 10).

Regarding claim 93, Alexander further teaches one or more advertising segments corresponding to the designated content source comprises configuring the content display to display advertising segments related to the designated content source in a prominent position on the content display relative to a position of content from one or more other content source (the selected ads is highlighted, detail information of the highlighted source display Ad window- col. 20, lines 4-37; and figure 10).

Regarding claim 94, Alexander further teaches one or more advertising segments corresponding to the designated content source comprises configuring the content

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display to display advertising segments related to the designated content source in a prominent manner on the content display relative to a manner of content from one or more other content source (the selected ads is highlighted- col. 20, lines 4-32; and figure 10).

Regarding claim 95, Alexander further discloses content is provided to viewer based on local day part of the viewer as discussed in the rejection of claim 82. Alexander further discloses multiple icons related to the highlighted program are displayed in the Guide. The icon provides viewer with the option of connecting to the Internet, e.g., to a particular on line chat about the highlighted program (col. 13, lines 35-45, col. 18, line 55+). Apparently, configuring a content display comprises configuring a communication utility based (chat) upon the determined local day part. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Boyer to use the teaching as taught by Alexander in order to allow user to communicate to one another.

Regarding claim 96, Alexander teaches configuring a communications utility comprises configuring a chat room (col. 18, lines 35-53).

Claims 105-111 are directed toward embody the method of claims 90-96 respectively in "computer program store in computer readable medium". Alexander further discloses computer program that control the operation of the system (col. 5, lines 20-45. Thus,

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rejections on claims 105-111 are analyzed as discussed with respect to the rejections of claims 90-96.

8. Claims 116- 122 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boyer et al. (US 2004/0128686, and in view of Alten et al. (US 5,635,978).

Regarding claim 118, Boyer discloses the viewer enter a geographic location, the system determines the geographic location entered by the user; the system determines and configured time correspond to the entered zip code and customizes data correspond to day part associate with the zip code entered by the users (figures 4, 16, 20, par. 078, par. 0102-0105). Inherently, the method comprising:

determining a first geographic location and a first associated day part for a first user (determining geographic location and day part associated for the first user, for example, an Eastern region and eastern time is associated with the user if the user entered a zip code correspond to Eastern region);

determining a second geographic location and a second associated day part for a second user, the second day part being different from the first day part (determining geographic location and day part associated for the second user, for example, an Mountain region and mountain time is associated with another user if the user entered a zip code correspond to Mountain region, the time of Mountain region being different from the time of Eastern region);

identifying first non-television programming content corresponds to the first day part and second non-television content that correspond to the second day part (e.g. determining graphic, logo, program guide data correspond to the time of Eastern region and time of Mountain region);

enable presentation on the first content display to the first user; and presentation of the second content display to the second user (presentation on the screen of user entered zip code in Eastern region, and screen of user entered zip code in Mountain region, the content based on the time of the selected region. However, Boyer does not specifically disclose simultaneously display a television program and the non-television programming content.

Alten discloses the simultaneously disclose a television program and non-television (channel listing, graphic, etc.) – col. 9, lines 50-67, figure 7A-7C). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Boyer to use the teaching as taught by Alten in order simultaneously view television program and non-television program on the same screen thereby improve convenience to user.

Regarding claim 119, Boyer further discloses the non-television program content comprises color, graphic, text, link, etc. (figure 16, par. 87).



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Regarding claim 120, Alten further discloses first content display comprises adjusting the look and feel to complement the first associated day part (e.g. display a sunrise in the background every morning – col. 11, lines 30-52).

Regarding claim 121, Alten further discloses only background of the display changes (col. 11, lines 30-52). Thus, the look and feel is adjusted without modifying the content being displayed based on the local day part.

Regarding claim 122, Boyer further discloses the first user content display is configured by the zip code, geographic location entered by user, which is not in user profile (figures 4-6). Thus, the content display is configured independent of a profile of the user.

Regarding claims 116-117, the additional limitations as claimed correspond to the additional limitations as claimed in claims 120-121, and are analyzed as discussed with respect to the rejection of claims 120-121.

Regarding claim 123, Boyer discloses the viewer enter a geographic location, the system determines the geographic location entered by the user; the system determines and configured time correspond to the entered zip code and customizes data correspond to day part associate with the zip code entered by the users (figures 4, 16, 20, par. 078, par. 0102-0105). Inherently, the method comprising:

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“determining a geographic location of a user” (look up the geographic location such as zip code, city, Eastern, Mountain information entered by the user – figure 4, 8);

“determining a local day-part corresponding to the geographic location” (determining day part associated with the entered geographic location such as Eastern Time, Mountain time, etc. particular to the day part entered by the user- par. 0102-par.0104);

“receiving television programming content based on the local day-part determined – figures 16-22, paragraphs 102-104);

“receiving look and feel content” (e.g., pink for sports program listings and orange for movie program listings – paragraph 0087);

“enabling presentation of the content display to the user” (figures 16,20,24,29). However, Boyer does not specifically disclose receiving look and feel content corresponding to the day part, and configuring a content display to feature television program content together with the look and feel content.

Alten discloses receiving look and feel content corresponding to the day part (i.e., a sunrise in the morning, a blue sky in day time, a nighttime view at night, etc. – col. 11, lines 30-52) and configuring a content display to feature television program content together with the look and feel content (col. 11, lines 30-52, figures 5b, 5c, 7a, 7b). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Boyer to use the teaching as taught by Alten in order to help ease the monotony of viewing the program listings (col. 11, lines 33-36).

Regarding claim 124, Alten further discloses the look and feel content (blue sky, sunrise, etc.) comprises a background of the content display (col. 11, lines 30-52, figures 5b-5c).

Regarding claim 125, Boyer in view of Alten discloses the look and feel content as discussed in the rejection of claim 123. It would have been obvious to one of ordinary skill in the art that the look and feel content comprises a border of the television program content in order to provide an alternative display of the screen.

Regarding claim 126, Boyer further discloses the look and feel content comprises a color scheme for the content display (par. 0087).

### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Rowe et al. (US 6,792,615) discloses encapsulated, streaming media automation and distribution system.

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10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Son P. Huynh whose telephone number is 571-272-7295. The examiner can normally be reached on 7:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher C. Grant can be reached on 571-272-7294. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SPH  
November 4, 2005



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